

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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IN RE: NATIONAL FOOTBALL	:	No. 2:12-md-02323-AB
LEAGUE PLAYERS' CONCUSSION	:	
INJURY LITIGATION	:	MDL No. 2323

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	:	<b>Hon. Anita B. Brody</b>
THIS DOCUMENT RELATES TO:	:	
ALL ACTIONS	:	

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**REPORT OF THE SPECIAL MASTERS**

1. Wendell E. Pritchett and Jo-Ann M. Verrier, as Special Masters appointed by the Court on July 13, 2016 (ECF 6871) pursuant to Article X of the Class Action Settlement Agreement (Settlement Agreement) in this matter, submit this Report to the Court alongside Status Reports from the Claims Administrator, Brown Greer LLC (Claims Administrator), and the Baseline Assessment Program Administrator, Garretson Resolution Group (BAP Administrator), to provide an update on the Agreement's effectuation and progress.
2. The Special Masters have reviewed the 3<sup>rd</sup> Quarter 2019 Status Reports submitted by both Administrators. These accurately and thoroughly reflect the work of both firms.

3. In the following, the Special Masters augment their weekly reports to the Court by highlighting work detailed in the Status Reports and detailing work outside of the Administrators' purview.

### **Overall Administration**

4. As noted in earlier reports, the Special Masters participate in bi-weekly calls with the Claims Administrator and the BAP Administrator as well as in additional discussions and communications on as frequent basis as necessary to make decisions supporting the fair and efficient administration of the Settlement Agreement.

5. The Special Masters are constantly informed about the progress of all Claims through the Claims Administrator's robust systems (and as reported in Section 8 of the weekly Summary Report found on the NFL Concussion Settlement website) as well as about the Claims Administrators work building and maintaining a corps of trained Monetary Award Fund physicians. After review with the Claims Administrator, the Special Masters approve the monthly disbursement report to the Trustee authorizing payments of Monetary Awards to Settlement Class Members (SCMs) as well as to relevant attorneys, lienholders, and third-party funders where appropriate.

6. The Special Masters are informed about the BAP Administrator's management of requests for and scheduling of Baseline Assessment Program examinations as well as of the BAP Administrator's on-going attempts to build and maintain an active and robust corps of trained BAP authorized neuropsychologists and neurologists. The Special Masters are aware of the BAP Administrator's work around encouraging these physicians to complete their evaluations of Retired NFL Players according to the terms of the Settlement Agreement and in a timely manner.

7. The Special Masters often serve as intermediaries between the Court and the Administrators and discuss these and all other matters arising in the efficient and fair administration of the Settlement Agreement in a weekly report to the Court.

**Baseline Assessment Program Milestones**

8. As noted in the BAP Administrator's report, the Settlement Agreement establishes deadlines for Baseline Assessment Program examinations: Players aged 43 or older on the Effective Date were required to take a baseline assessment examination by June 6, 2019, and Players younger than age 43 on the Effective date have until the earlier of the day they turn 45 or June 6, 2027.

9. Given the importance of this deadline, the Administrators, Parties, and Special Masters agreed that Players under the first of these requirements would be deemed to have met its requirements if they requested the scheduling of BAP examinations on or before June 6, 2019.

10. Class Counsel and the Administrators made consistent and repeated efforts to communicate with Players about the deadline, as almost two-thirds of eligible Players are subject by age to the June 6, 2019 deadline. The BAP Administrator experienced a four-fold increase in requests for appointments from Players in the four weeks prior to the deadline as compared against the four weeks prior to the deadline, handling requests from 1,205 Players.

11. The BAP Administrator is working closely with Players and, where appropriate, their Counsel both to schedule and ensure participation in the appointments. As of August 21, 2019, the BAP Administrator had offered appointments to 7,006 of the 7,378 Players who have requested appointments.

12. As of August 21, 2019, 3,499 Players have had full BAP examinations completed, resulting in 77 Level 2 diagnoses, 115 Level 1.5 diagnoses, 115 Level 1 diagnoses (entitling these Players to Supplemental Benefits under the Settlement Agreement), and 3,192 cases with no diagnosis.

### **Audits**

13. Under the terms of Section 10.3 of the Settlement Agreement, the Special Masters review determinations of the Claims Administrator concerning misrepresentation, omission, or concealment of a material fact in connection with a Monetary Award Claim.

14. The Claims Administrator continues its careful and detailed recommendations of Audits to the Special Masters, who currently have two audits under consideration.

### **Special Investigator**

15. Upon a motion of the NFL Parties and at the request of the Special Masters, the Court appointed a Special Investigator on December 10, 2018 (ECF 10355).

16. The Special Masters are in constant communication, formalized in a regular conference call, with the Special Investigator, to discuss on-going investigations, proposed investigations, and results of investigations.

17. As noted in the 2<sup>nd</sup> Quarter Report, the Special Masters, to date, have referred one individual SCM, one litigation funding company, and three law firms to the Special Investigator. After investigation, the claim of the individual SCM was denied for inclusion of a false affidavit. Investigation continues in the remaining four.

18. The Special Masters are collaborating with Special Master Susan Lin, appointed by the Court on July 15, 2019 to advise the Court on matters regarding the rights of those engaged in these investigations.

### **Appeals**

19. Alongside the Special Master's authority to hear appeals of registration determinations under the terms of Section 10.1(b)(i)(3) of the Settlement Agreement, the Court has directed the Special Masters to hear appeals of the Claims Administrator's decisions on Claims pursuant to the Rules Governing Appeals of Claim Determinations.

20. To date, the Special Masters have heard 35 registration appeals, upholding the Claims Administrator's decision in 32 of them and overturning the decision in three.

21. To date, approximately 4% of payable awards have been appealed by Players, 12% of payable awards have been appealed by the NFL, and 14% of denied claims have been appealed by Players. The Special Masters continue to review and issue decisions on these appeals.

### **Statute of Limitations Matters**

22. The Special Masters are charged, under the Rules Governing Statute of Limitations Proceedings, with deciding whether claims by SCMs regarding Players who died prior to January 1, 2006, are eligible for a Monetary Award pursuant to Article 6.2(b) of the Settlement Agreement.

23. At the direction of the Court and with consent of the Parties, this determination will be considered after all claims presenting this issue are briefed and the relevant parties are

heard on the matter to allow for a uniform and efficient processing of all claims. It is now anticipated that all briefs will be received by late November, 2019.

**Monitoring of the Qualified Attorneys' Settlement Fund**

24. Pursuant to order of the Court, the BAP Administrator serves as Trustee of an Attorney's Fees Qualified Settlement Fund under Section 23.7 of the Settlement Agreement. The Fund is established for the payment of attorneys' fees.

25. The Special Masters request and review reports on the performance of the Attorneys' Fees Qualified Settlement Fund to assure timely availability of funds, pursuant to the Settlement Agreement.

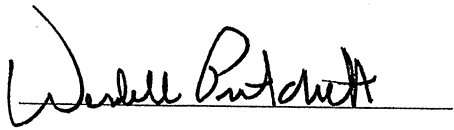
26. The Court appointed a Pro Se Liaison to assist pro se Representative Claimants who are pursuing claims involving Statute of Limitations matters. The Pro Se Liaison's fees are paid from interest earned on the Qualified Attorneys' Settlement Trust. The Special Masters review the Pro Se Liaison's time on a monthly basis to ensure billed work is incurred in the fair and efficient administration of the Settlement Agreement, per the Court's appointment.

**Education Fund**

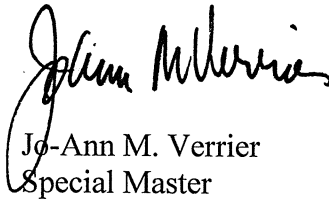
27. At the request of the Court, the Special Masters have been working with Class Counsel and Counsel for the NFL Parties to establish, pursuant to Article XII of the Settlement Agreement, programs promoting safety and injury prevention with respect to football players. These programs will be paid for out of a Fund established under Article XII and funded by the NFL Parties.

28. As reported in the 2<sup>nd</sup> Quarter 2019 Report, this process is proceeding with cooperation and support of all involved. The Parties are drafting a proposal for the effectuation of this requirement of the Settlement Agreement and expect to present it to the Court in September 2019. This proposal includes suggestions for the active participation of Retired NFL Football Players in the Education Fund initiatives.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wendell Pritchett", written over a horizontal line.

Wendell E. Pritchett  
Special Master

A handwritten signature in black ink, appearing to read "Jo-Ann M. Verrier", written over a horizontal line.

Jo-Ann M. Verrier  
Special Master